

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

210

CRM-M-8335-2023

Date of Decision: 29.04.2023

Baldev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kulwinder Singh, Advocate with
Ms. Srishti Shukla, Advocate for the petitioner
Mr. Vipin Pal Yadav, Addl. AG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.104 dated 16.10.2022 under Sections 306 & 34 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Chhajli, District Sangrur,

2. The case of the prosecution is that complainant i.e. brother of the deceased lodged a complaint that his younger sister, namely, Veerpal Kaur, was married to Bhinder Pal Singh son of Baldev Singh in 2012. One child was born from this wedlock. Bhinder Pal Singh and his father Baldev Singh were addicted to liquor and they used to harass his sister. About one month back, Bhinder Pal Singh, had executed an undertaking that he would not harass his wife. In case, he gives beatings to his wife or she dies due to such beatings, he shall be personally responsible. In

case, his wife commits any mistake, he shall give information to his father or wife's brother or neighbour Tarseem Singh.

3. Learned counsel for the petitioner, *inter alia* contends that foundation of the FIR is undertaking executed by son of the petitioner. In the undertaking, husband of the deceased had undertaken not to beat his wife and in case of her mistake, he would inform his father or brother of the deceased i.e. complainant. The undertaking has not been furnished by petitioner and undertaking of son of the petitioner is not indicating that petitioner was liquor addict or was in habit of beating the deceased. The petitioner is not involved in any other offence and his son i.e. husband of the deceased is already in custody. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Sangrur. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 28.04.2023 is taken on record. As per custody certificate, the petitioner is in custody since 17.10.2022 and he is not involved in any other offence.

5. Status report by way of affidavit dated 29.04.2023 of Prithvi Singh Chahal, P.P.S., Deputy Superintendent of Police, Sub-Division, Dirba, District Sangrur filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

6. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that there are 17

witnesses and none has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

7. In the case in hand, the foundation of FIR is undertaking furnished by son of the petitioner wherein he is admitting his act and conduct. *Prima facie* petitioner cannot be held responsible on the basis of said undertaking. The petitioner is in custody since 17.10.2022 and he is not involved in any other offence. Charges stand framed. Nothing is to be recovered from the petitioner. The Trial Court yet has to return definite findings on the disputed issues. There are 17 prosecution witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail

subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

29.04.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>